

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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TRACY COLE and TALEAVIA COLE,

Plaintiffs,

Case No. 23-CV-1321

v.

CITY OF WAUWATOSA, et al.,

Defendants.

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**BRIEFING ORDER ON RULE 12(C) MOTION**

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Currently pending before me are two cases, *Cole, et al. v. City of Wauwatosa, et al.*, Case No. 23-cv-1321 and *Rivera et al. v. City of Wauwatosa et al.*, 23-cv-1330, that are related to a closed case, *Aaron et al. v. Ratkowski et al.*, 20-cv-1660, that is currently on appeal before the Seventh Circuit. Plaintiffs in both cases have filed expedited motions to stay the current proceedings during the pendency of the appellate proceedings in *Aaron*. Defendants oppose the stay motions and separately move for sanctions in both cases on the grounds that the present lawsuits are barred by the doctrines of issue preclusion and claim-splitting.

After holding a Rule 16 Scheduling Conference with the parties in *Rivera*, I determined that the motion to stay is intertwined with the preclusion issues and ordered the parties to brief the preclusion issue. Specifically, Defendants will file a Fed. R. Civ. P. 12(c) motion on the preclusion issue by no later than March 22, 2024. The parties will follow the briefing schedule as provided in this district's local rules. I will take up the sanctions motion after this issue has been addressed.

Given the same issues are present in the *Cole* action, I will enter the same briefing schedule. Defendants will file a Fed. R. Civ. P. 12(c) motion on the preclusion issue by no

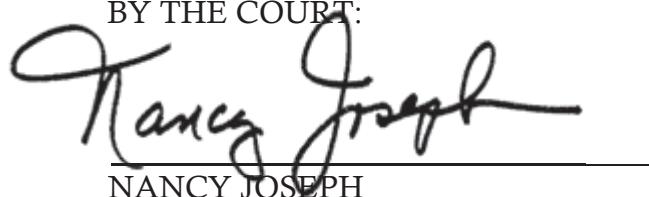
later than **March 22, 2024**. Again, the parties will follow the briefing schedule as stated in the local rules and I will take up the sanctions motion after the preclusion issue is addressed.

Thus, the Rule 16 set for April 1, 2024 is **REMOVED** from the calendar and the deadlines for the Rule 26 discovery plan are vacated.

**IT IS SO ORDERED.**

Dated at Milwaukee, Wisconsin this 23<sup>rd</sup> day of February, 2024.

BY THE COURT:



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NANCY JOSEPH  
United States Magistrate Judge